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Analysis of H.R. 10: Executive Summary

The National Commission on Terrorist Attacks upon the United States, popularly known as the 9-11 Commission, released a unanimous report on the September 11 attacks and what Congress and the Executive Branch should do to prevent future terrorist attacks. The 9-11 Commission made 41 recommendations for action. As the Commissioners wrote, the 41 specific recommendations are necessary to accomplish three core objectives: “(1) attack terrorists and their organizations, (2) prevent continued growth of Islamist terrorism, and (3) protect against and prepare for future terrorist attacks.”

This report compares the recommendations made by the 9-11 Commission to H.R. 10, the legislation developed by the Republican House leadership in response to the Commission’s recommendations. It finds that H.R. 10 contains significant shortcomings. Of the 41 recommendations made by the 9-11 Commission, H.R. 10 fully implements only 11 recommendations. In contrast, 15 recommendations are not addressed at all, and 15 are only partially implemented. See Figure 1.

The recommendations that are ignored in H.R. 10 include some of the Commission’s most important recommendations. Contrary to the recommendations of the 9-11 Commission, H.R. 10:

- Fails to give the National Intelligence Director sufficient authority over the budget and personnel of the intelligence agencies;
- Fails to strengthen U.S. efforts to prevent the proliferation of nuclear weapons;
- Fails to secure U.S. borders by integrating disparate screening systems;
- Fails to mandate and fund the use of explosive detection devices for airline safety;
- Fails to provide radio spectrum for first responders to communicate during emergencies;
- Fails to provide additional security assistance to Afghanistan or economic development assistance to Arab and Muslim countries.

In testimony before congressional committees, the 9-11 Commissioners repeatedly emphasized the importance of enacting their recommendations as a complete package. As Commissioner John Lehman, the former Secretary of the Navy, testified before the Government Reform Committee: “Our recommendations are not a Chinese menu. They are a whole system. If all important elements are not adopted, it makes it very difficult for the others to succeed.” H.R. 10 does not meet this standard.

At the same time that H.R. 10 fails to implement many of the recommendations of the 9-11 Commission, the legislation includes over 50 extraneous provisions that were not recommended by the Commission. While some of these extraneous provisions are noncontroversial, many are “poison pills” that will delay or frustrate passage of the legislation. For example, H.R. 10:

- Gives the President “fast track” authority to reorganize the intelligence agencies, undermining the reforms recommended by the 9-11 Commission;
- Gives the President authority to bypass Senate confirmation of the Director of the CIA and other key intelligence and defense officials, weakening congressional oversight;
- Gives federal law enforcement officials new authority to deport foreign nationals, revoke visas, and deny asylum without judicial review;

- Creates new national databases of drivers licenses, birth certificates, and criminal histories, raising civil liberties and privacy concerns;
- Expands the authority of the Justice Department by relaxing grand jury secrecy requirements and increasing its ability to conduct secret surveillance.

Like the failure to implement all 41 recommendations, the inclusion of the extraneous provisions also conflicts with the position of the 9-11 Commission. As Commission Vice Chairman Lee Hamilton said with Commission Chairman Thomas Kean last week: “We respectfully submit that consideration of controversial provisions at this late hour can harm our shared purpose in getting a good bill to the President.”

Figure 1: Implementation of 9-11 Commission Recommendations under H.R. 10

	✓ Implemented	-- Incomplete	✗ Not Implemented
#1	Identify and Prioritize Terrorist Sanctuaries	✓	
#2	Prioritize Efforts in Pakistan	✓	
#3	Prioritize Efforts in Afghanistan		✗
#4	Prioritize Efforts in Saudi Arabia	✓	
#5	Engage in the Struggle of Ideas in the Islamic World	--	
#6	Promote America's Message of Opportunity in the Islamic World	✓	
#7	Defend American Ideas Abroad		✗
#8	Support Education Programs in the Islamic World	--	
#9	Bolster Economic Development in the Islamic World		✗
#10	Create a Coalition Strategy to Defeat Terrorists	--	
#11	Ensure the Humane Treatment of Captured Terrorists		✗
#12	Strengthen Counterproliferation Efforts		✗
#13	Track Terrorist Financing	--	
#14	Track Terrorist Travel	--	
#15	Create a Network of Screening Systems to Thwart Terrorists	--	
#16	Create a Robust Biometric Entry-Exit Screening System	✓	
#17	Set Global Standards for Security Systems	✓	
#18	Establish Federal Standards for Driver's Licenses and Birth Certificates	--	
#19	Develop Transportation Security Strategy	✓	
#20	Strengthening Pre-screening of Aviation Passengers	✓	
#21	Improve Passenger Screening for Explosives	--	
#22	Protect Individual Privacy in Information Sharing Systems	--	
#23	Justify Expansions of Governmental Powers	--	
#24	Create a Civil Liberties Board		✗
#25	Distribute First Responder Grants Based on Risk	--	
#26	Adopt Incident Command System Procedures	✓	
#27	Ensure Adequate Radio Spectrum for Public Safety		✗
#28	Adopt the ANSI Standard for Private Sector Preparedness		✗
#29	Create a National Counterterrorism Center (NCTC)	--	
#30	Establish a National Intelligence Director (NID)	--	
#31	Improve the CIA	--	
#32	Give the Department of Defense Control over Paramilitary Operations		✗
#33	Declassify the Intelligence Budget		✗
#34	Provide Incentives for Information Sharing		✗
#35	Create Information Sharing Network		✗
#36	Reform Congressional Intelligence Committees		✗
#37	Reorganize Congress to Oversee Homeland Security Department		✗
#38	Accelerate National Security Appointments	✓	
#39	Improve FBI Counterterrorism Capabilities	✓	
#40	Assess and Oversee the Northern Command's Strategy	--	
#41	Assessing, Planning, and Preparing for Threats to the Nation and Its Critical Infrastructure		✗
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